

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

WILLIE E. WATERS,

Civil No. 08-0012 (JRT/JJK)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

KMART CORPORATION,

Defendant.

Stephen C. Fiebiger, **STEPHEN C. FIEBIGER & ASSOCIATES,
CHARTERED**, 2500 West County Road 42, Suite 190, Burnsville, MN
55337, for plaintiff.

Kathryn Mrkonich Wilson and Reagan W. Oden, **LITTLER MENDELSON,
PC**, 80 South Eighth Street, Suite 1300, Minneapolis, MN 55402, for
defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes, dated July 11, 2008, all the files and records, and no objections having been filed to said Report and Recommendation.

Based upon the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein, **IT IS HEREBY ORDERED** that defendants' Motion to dismiss [Docket No. 9] is **DENIED**.

Dated: July 24, 2008
at Minneapolis, Minnesota

s/John R. Tunheim
John R. Tunheim
United States District Judge